

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SAMUEL CABASSA,

Plaintiff,

vs

9:06-CV-852

JOSEPH SMITH, Superintendent, Shawangunk
Correctional Facility; ANTHONY FORTE, Chief
Medical Doctor, Shawangunk Correctional Facility;
ANTHONY FORTE, Estate of; LESTER N. WRIGHT,
Deputy Commissioner, Chief Medical Officer, NYS
Dept. of Correctional Services; LEONARDO
PORTUONDO, Superintendent; MARYANN
GENOVESE, Medical Doctor; RICHARD WURZEL;
DR. KATZ; and THOMAS G. EAGEN, Director,
Inmate Grievance Program,

Defendant.

APPEARANCES:

OF COUNSEL:

SAMUEL CABASSA
Plaintiff, Pro Se
84-A-0364
Clinton Correctional Facility
PO Box 2002
Dannemora, NY 12929

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
Department of Law
The Capitol
Albany, New York 12224

DEAN J. HIGGINS, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Samuel Cabassa, brought this civil rights action in July 2006, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated August 21, 2009, the Honorable David E. Peebles, United States Magistrate Judge, recommended that defendants' motion for summary judgment (Docket No. 41) be granted, in part, and that all of plaintiff's claims against the defendants be dismissed with the exception of plaintiff's causes of action against defendants in their official capacities for violation of the ADA and Section 504 of the Rehabilitation Act, with leave to defendants to move for summary judgment addressing the merits of those claims. The plaintiff has timely filed objections to the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which the plaintiff has objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

Accordingly, it is

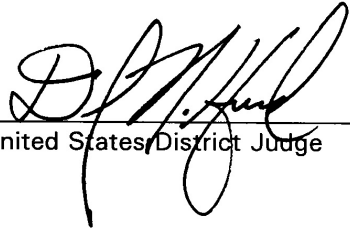
ORDERED that

1. Defendants' motion for summary judgment (Doc. No. 41) is GRANTED, in part;
2. All of plaintiff's claims against the defendants are DISMISSED with the exception of plaintiff's causes of action against defendants in their official capacities for violation of the ADA and Section 504 of the Rehabilitation Act;
3. Defendants are granted leave to move for summary judgment addressing the merits of the claims against them in their official capacities for violation of the ADA and Section 504 of the Rehabilitation Act.

4. A conference will be held on November 30, 2009, at 1:30 p.m. to issue a trial date.

IT IS SO ORDERED.

Dated: September 29, 2009
Utica, New York.


United States District Judge